

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

TODD CHANEY; ERIC DELEON,

Plaintiffs,

v.

9:04-CV-0136
(LEK)(DRH)

TIMOTHY KOUPASH, Correctional Officer; *et al.*,

Defendants.

APPEARANCES:

OF COUNSEL:

TODD CHANEY
Plaintiff, *pro se*
88-B-0634

ERIC DELEON
Plaintiff, *pro se*
96-A-6822

HON.ANDREW M. CUOMO
Office of the Attorney General
State of New York
Department of Law
The Capitol
Albany, New York 12224

RISA L. VIGLUCCI, ESQ.

DAVID R. HOMER, U.S. MAGISTRATE JUDGE

ORDER

By Order dated August 8, 2006 this Court granted Plaintiffs' Motion to Amend. Docket No. 113. The August Order directed that the newly added Defendants be served with the Amended Complaint, and that the Plaintiffs serve a copy of the amended Complaint (Docket No. 116) on Defendants' counsel. However, the Court's docket reflects that Summonses were re-issued for all Defendants. Docket No. 132. Such unnecessary service only serves to delay this case. See Docket No. 136. Accordingly, the Court clarifies the August Order for the benefit of all parties.

Defendants Curt Poirier, Mark Hurley, J. Alberry, C. Sullivan, R. Collins, A.J. Brown, Kevin H. Smith, F. Abare, C. Goodman, D. Whalen, L. Brockway, M. Gosselin, J. Stoddard, Nicholas DiBiase, F. Kruger, Timothy Quinn, Charles Kelly, William Phillips, Patrick Vanguilder, David A. Carpenter, Robert Ebert, James Plescia, George B. Duncan, Michael McGinnis, R. Doling, Regina Hillier, David Roberts, Sally Reams, Donald Selsky, Robert J. Murphy, Margaret Litzenberger, Jean Clancy-Botta, Stephen Bernardi, Glenn S. Goord, Thomas Koupash, Timothy Smith, Timothy J. Brockway, Thomas Eagen, Robert McCauley, Mark Totsky, and J. Grey have answered or otherwise entered an appearance through counsel in this action and need not be-reserved with the amended Complaint pursuant to Docket No. 113. See Docket Nos. 80, 82, 102, 119, and 129. Service by the Plaintiffs on Defendants' counsel is sufficient to comply with Docket No. 113 with respect to the Defendants who have appeared in this action. However, as of the date of this Order, Plaintiffs have not filed proof of service on Defendants' counsel. Thus, within twenty days from the filing date of this Order, Plaintiffs shall file proof of service of the amended Complaint on Defendants' counsel. Defendants' counsel shall file an Answer to the amended Complaint within thirty (30) days following Plaintiffs' filing with the Court the proof of service of the amended Complaint on Defendants' counsel.¹

Summonses should issue only for the unserved Defendants: S. Rowe, N. Sokol, Juckett, C. LaCroix, D. Nabozny, T. LaPier, Morehouse, Pray, Feola, Michael P. Corcoran, Richard Potter, Bartlett, Paul Corcoran, Sandra Dolce, James Conway, Gary Greene, Andrew Harvey, Nancy Manchell, Don Sawyer, C. Carlton, Russell Gosselin, E.

¹If Plaintiff's have already served Defendants' counsel, they need not re-serve the amended Complaint. Rather, they must simply file their proof of service with the Court. Defendants' response date will run from the date of such filing.

Greenwood, R. McLaughlin, R. Bardin, M. O'Brien, C. Granger, C.O. Pomainville, Eustis, Seneca, Fleckenstein, Adamy, Zimmerman, A. Ingleson, Julie Daniel, G. Struebel, Anthony Annucci, K. Bellamy, Lucien J. LeClaire, Jr, and they shall be served with the amended Complaint pursuant to Docket No. 113. The unserved Defendants shall file a response to the amended Complaint in accordance with the Federal Rules of Civil Procedure.

WHEREFORE, it is hereby

ORDERED, that Defendants Curt Poirier, Mark Hurley, J. Alberry, C. Sullivan, R. Collins, A.J. Brown, Kevin H. Smith, F. Abare, C. Goodman, D. Whalen, L. Brockway, M. Gosselin, J. Stoddard, Nicholas DiBiase, F. Kruger, Timothy Quinn, Charles Kelly, William Phillips, Patrick Vanguilder, David A. Carpenter, Robert Ebert, James Plescia, George B. Duncan, Michael McGinnis, R. Doling, Regina Hillier, David Roberts, Sally Reams, Donald Selsky, Robert J. Murphy, Margaret Litzenberger, Jean Clancy-Botta, Stephen Bernardi, Glenn S. Goord, Thomas Koupash, Timothy Smith, Timothy J. Brockway, Thomas Eagen, Robert McCauley, Mark Totsky, and J. Grey have answered or otherwise entered an appearance through counsel in this action and need not be re-served with the amended Complaint pursuant to Docket No. 113. The Summonses issued for these individuals (Docket No. 132) shall be **VACATED**, and it is further

ORDERED, that within **twenty (20) days** from the filing date of this Order, Plaintiffs shall file proof of service of the amended Complaint on Defendants' counsel, and it is further

ORDERED, that Defendants' counsel shall file an Answer to the amended Complaint, on behalf of the Defendants who have entered an appearance in this action, within **thirty (30) days** following Plaintiffs' filing with the Court the proof of service of the

amended Complaint on Defendants' counsel, and it is further

ORDERED, that Summonses shall issue only for the unserved Defendants: S. Rowe, N. Sokol, Juckett, C. LaCroix, D. Nabozny, T. LaPier, Morehouse, Pray, Feola, Michael P. Corcoran, Richard Potter, Bartlett, Paul Corcoran, Sandra Dolce, James Conway, Gary Greene, Andrew Harvey, Nancy Manchell, Don Sawyer, C. Carlton, Russell Gosselin, E. Greenwood, R. McLaughlin, R. Bardin, M. O'Brien, C. Granger, C.O. Pomainville, Eustis, Seneca, Fleckenstein, Adamy, Zimmerman, A. Ingleson, Julie Daniel, G. Struebel, Anthony Annucci, K. Bellamy, and Lucien J. LeClaire, Jr. These Defendants shall be served with the amended Complaint pursuant to Docket No. 113, and each such Defendant shall file an response to the amended Complaint in accordance with the Federal Rules of Civil Procedure, and it is further

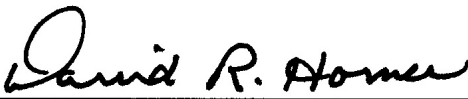
ORDERED, that Docket No. 136 is **DENIED** as moot in light of the foregoing, and it is further

ORDERED, that the discovery deadline is re-set to **May 30, 2007**, the motion to compel deadline re-set to **June 29, 2007**, and the dispositive motion filing deadline re-set to **August 1, 2007**, and it is further

ORDERED, that the Clerk serve a copy of this Order on the parties hereto in accordance with the Local Rules.

IT IS SO ORDERED.

Dated: January 17, 2007


United States Magistrate Judge